

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

RANDY JARVIS

VS.

SOUTH TEXAS COLLEGE

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CIVIL ACTION NO. 7:15-cv-00017
(JURY REQUESTED)

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW, South Texas College, Defendant in the above styled and numbered matter, and files this its Notice of Removal of the present cause from the 370th Judicial District Court of Hidalgo County, Texas, in which it is now pending, to the United States District Court for the Southern District of Texas, McAllen Division, and would respectfully show unto the Court as follows:

I.

1.01 This cause was commenced on December 19, 2014, in the 370th Judicial District Court of Hidalgo County, Texas with the style Randy Jarvis vs. South Texas College, Cause Number C-8798-14-G. True and correct copies of Plaintiff's Original Petition in that cause, the citation and return served on Defendant and the certified docket sheet are attached hereto as Exhibits A, B and C. Plaintiff alleges that (1) he filed an employment discrimination complaint with the Texas Workforce Commission and the Equal Employment Opportunity Commission alleging discrimination on the basis of disability and retaliation for hiring legal counsel and asserting his rights under the Americans with Disabilities Act of 1990, (2) he is an individual with a disability within the meaning of the Americans with Disabilities Act of 1990 (ADA), 42

U.S.C. section 12102, (3) he engaged in protected activity for purposes of an Americans with Disabilities Act of 1990 (ADA) retaliation claim by requesting a reasonable accommodation and (4) Defendant retaliated against him for requesting a reasonable accommodation.

2.01 Defendant received a copy of Plaintiff's Original Petition on January 8, 2015.

3.01 This action is a civil action in that Plaintiff alleges that Defendant violated his rights under the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. section 12102.

4.01 The above described action is one in which this Court has original subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331 inasmuch as this action arises under the laws of the United States. Removal is proper pursuant to the provisions of 28 U.S.C. § 1441(a), as this is a civil action where this Court has original jurisdiction and is founded on claims arising under the laws of the United States.

5.01 Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendant to Plaintiff and his counsel has been provided. Copies of all documents required to be attached to this Notice of Removal under the local rules of the Southern District of Texas have been filed with the court and are attached hereto. A copy of this Notice of removal is also being filed with the Clerk of the State Court for which this cause was originally filed.

6.01 This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446(b) in that it is filed within thirty (30) days of the date of service of Plaintiff's Original Petition upon the Defendant.

WHEREFORE, PREMISES CONSIDERED, Defendant South Texas College prays for removal of the above entitled cause of action from the 370th Judicial District Court of Hidalgo County, Texas to this Court and seeks all other relief to which it may show itself to be justly entitled to.

Signed on January 20, 2015.

Respectfully submitted,

ESPARZA & GARZA, L.L.P.

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By: /s/ Eduardo G Garza
Eduardo G Garza
State Bar No. 00796609
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USDC ADM. No. 22703
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2015, pursuant to the Federal Rules of Civil Procedure, a true and correct copy of the above and foregoing document was served on each party to this action by Defendant's submission of this document to the U.S. District Court electronically to the DCECF system:

Frank Hill
Hill Gilstrap, P.C.
1400 W. Abram Street
Arlington, Texas 76013

/s/ Eduardo G Garza
Eduardo G Garza

CERTIFICATE OF CONFERENCE

The Local Rules for the United States District Court for the Southern District of Texas do not require a conference for this pleading.

/s/ Eduardo G Garza
Eduardo G Garza